



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

***CERTIFIED MAIL - RETURN RECEIPT REQUESTED***

**SEP 18 2013**

City of Portland  
Economic Development Department  
Attn: Gregory Mitchell, Director  
389 Congress Street  
Portland, Maine 04101

Re: PCB Cleanup and Disposal Approval under 40 CFR §§ 761.61(a) and (c)  
Former New England Metals Recycling  
Portland, Maine

Dear Mr. Mitchell:

This is in response to the City of Portland (the City) Notification<sup>1</sup> to address cleanup of polychlorinated biphenyls (PCBs) on the property known as the former New England Metals Recycling facility and located at 25 Somerset Street (the Site) in Portland, Maine. PCB-contaminated materials (e.g., soils, concrete) that exceed the allowable PCB levels for *unrestricted use* under the federal PCB regulations at 40 CFR § 761.61(a) are located on the property.

The Notification indicates that the City has determined that the Site meets the definition for a *high occupancy area* cleanup under § 761.3. Accordingly, the City is proposing to clean up and dispose of *PCB remediation waste* under the PCB self-implementing cleanup and disposal option (SIP) at 40 CFR § 761.61(a) as follows:

- Remove all *PCB remediation waste* with greater than (>) 10 parts per million (ppm) PCBs to meet the requirements under § 761.61(a)(4)(i)(A) for a *high occupancy area* cleanup and the requirements under the Maine Remedial Action Guidelines;
- Conduct post-excavation verification sampling in the excavation areas in accordance with Subpart O to confirm that the PCB concentration is less than or equal to (≤) 10 ppm;

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<sup>1</sup> Information was submitted on behalf of the City by Woodard & Curran. The information was provided to satisfy the notification requirement under 40 CFR § 761.61(a). Information was provided dated July 22, 2011 (Self-Implementing cleanup); March 29, 2013 (40 CFR 761 PCB Remediation Plan Notification); April 9, 2013 (Response to EPA Comments dated September 27, 2011); May 15, 2013 (Addendum to Self-Implementing Cleanup and Disposal Plan (SIP) under 40 CFR 761.61(a)); June 28, 2013 (Addendum to SIP under § 761.61(a)); July 23, 2013 (email management of onsite asphalt); August 29, 2013 (email sample data and management of concrete pad); September 10, 2013 (email sample data); and September 16, 2013 (email sample data). These submittals will be referred to as the "Notification."

- Install a compliant cap in accordance with § 761.61(a)(7) beneath a visual demarcation barrier and at least 3 to 4 feet of clean fill that will be added to the overall Site grade to meet the minimum requirements of the Federal Emergency Management Agency Flood Insurance Rate Maps base flood elevation and to meet insurance and zoning requirements;
- Dispose of PCB-contaminated wastes with greater than or equal to ( $\geq$ ) 50 ppm PCBs at a TSCA-approved disposal facility or a RCRA hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(iii);
- Dispose of PCB-contaminated wastes with less than ( $<$ ) 50 ppm PCBs at a state-permitted non-hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(ii) or alternatively at a TSCA-approved disposal facility or a RCRA hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(iii); and,
- Record a deed notice to document the permitted uses, restricted uses, and obligations and conditions which must be maintained in accordance with § 761.61(a)(8).

In June 2013, a sampling study was conducted to confirm PCB concentrations at the Site using EPA extraction method 3540C. Previous samples were extracted for PCB analysis using EPA method 3550. The results of this study confirmed that the existing sampling data was sufficient to support the PCB cleanup and disposal plan.

With exception of the characterization sampling frequency for off-site disposal, the information provided meets the requirements at § 761.61(a). EPA has determined that the sampling frequency is adequate for off-site disposal purposes and that the sampling will not create an unreasonable risk to public health or the environment. EPA may approve the alternative sampling in accordance with § 761.61(c). The City may proceed with its cleanup in accordance with § 761.61(a); its Notification; and this Approval, subject to the conditions of Attachment 1.

This Approval only addresses cleanup and disposal of the *PCB remediation waste* identified in the Notification. In the event that the City identifies other PCB-contaminated wastes at the property subject to cleanup and disposal under the PCB regulations, it will be required to notify EPA and to clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761 (see Attachment 1, Condition 1.)

This Approval does not release the City from any applicable requirements of federal, state or local law, including the requirements related to cleanup and disposal of PCB-contaminated soils and other non-PCB contaminants under the Maine Department of Environmental Protection (MEDEP) regulations.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator (OSRR07-2)  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527 / Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval, including the executed deed notice. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,



James T. Owens, III  
Director, Office of Remediation & Restoration

Attachment 1: PCB Approval Conditions

cc: Amy Martin, Woodard & Curran  
Nick Hodgkins, MEDEP  
File



**ATTACHMENT 1:**

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
FORMER NEW ENGLAND METAL RECYCLING SITE (the Site)  
25 SOMERSET STREET  
PORTLAND, MAINE**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* located at the Site as identified in the Notification and as shown on Figures 7 through 10 of the March 29, 2013 submittal.<sup>1</sup>
  - a. In the event that the City of Portland (the City) identifies other PCB-contaminated wastes at the property subject to cleanup and disposal under the PCB regulations, the City will be required to notify EPA and clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761.
  - b. The City may submit a separate plan to address the PCB contamination or may modify the Notification to incorporate cleanup of the PCBs under this Approval in accordance with Condition 16.
2. The City shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. The City must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, the City shall contact EPA within 24 hours for direction on sampling and cleanup requirements.

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<sup>1</sup> Information was submitted on behalf of the City by Woodard & Curran. The information was provided to satisfy the notification requirement under 40 CFR § 761.61(a). Information was provided dated July 22, 2011 (Self-Implementing cleanup); March 29, 2013 (40 CFR 761 PCB Remediation Plan Notification); April 9, 2013 (Response to EPA Comments dated September 27, 2011); May 15, 2013 (Addendum to Self-Implementing Cleanup and Disposal Plan (SIP) under 40 CFR 761.61(a)); June 28, 2013 (Addendum to SIP under § 761.61(a)); July 23, 2013 (email management of onsite asphalt); August 29, 2013 (email sample data and management of concrete pad); September 10, 2013 (email sample data); and September 16, 2013 (email sample data). These submittals will be referred to as the "Notification."

6. The City is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time the City has or receives information indicating that the City or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by the City are authorized to conduct the activities set forth in the Notification. The City is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release the City from compliance with any applicable requirements of federal, state or local law; or 3) release the City from liability for, or otherwise resolve any violations of federal, state or local law.
9. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

#### **NOTIFICATION AND CERTIFICATION CONDITIONS**

10. This Approval may be revoked if the EPA does not receive written notification from the City of its acceptance of the conditions of this Approval within 10 business days of receipt.
11. The City shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
12. Prior to initiating onsite work under this Approval, the City shall submit the following information:
  - a. a certification signed by its selected remediation contractor, stating that the contractor has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
  - b. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the sample extraction, analytical and quality assurance requirements specified in the Notification and in this Approval; and,



- c. a contractor work plan, prepared and submitted by the selected contractor(s), detailing the procedures that will be employed for removal of PCB-contaminated wastes and for air monitoring during removal activities. This work plan should also include information on waste storage, handling, and disposal for each waste stream type and for equipment decontamination.

### **CLEANUP AND DISPOSAL CONDITIONS**

- 13. The cleanup level for *PCB remediation waste* (e.g., soil, concrete, asphalt) at the Site shall be less than or equal to ( $\leq$ ) 10 parts per million (ppm) and shall be covered with a compliant cap in accordance with § 761.61(a)(7) to meet both the requirements for a *high occupancy area* PCB cleanup under § 761.61(a)(4)(i)(A) and the requirements under the Maine Remedial Action Guidelines.
  - a. Bulk *PCB remediation waste* (i.e., soil) samples shall be collected on a bulk basis (e.g. mg/Kg) and reported on a dry-weight basis. Verification sampling shall comply with 40 CFR Subpart O.
  - b. If required, *porous surfaces* (e.g., concrete, asphalt) samples shall be collected on a bulk basis (i.e. mg/kg) and reported on a dry-weight basis. Sampling for *porous surfaces* shall be conducted in accordance with the EPA Region 1 *Standard Operating Procedure for Sampling Porous Surfaces for Polychlorinated Biphenyls (PCBs) Revision 4, May 5, 2011*, at a maximum depth interval of 0.5 inches, and in accordance with Subpart O.
  - c. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.
- 14. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:
  - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).

- c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

15. The City shall allow any authorized representative of the Administrator of the EPA to inspect the Site, to inspect records, and to take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by the City to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
16. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
17. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
18. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
19. Approval for these activities may be revoked, modified or otherwise altered: if EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; or, if EPA finds that these activities present an unreasonable risk to public health or the environment.

### **RECORDKEEPING AND REPORTING CONDITIONS**

20. The City shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the cleanup and the analytical sampling shall be established and maintained by the City in one centralized location until such time as EPA authorizes, in writing, an alternative disposition for such records. All records shall be made available for inspection by authorized representatives of EPA.



21. Within 60 days of completion of the cleanup activities described in the Notification and authorized by this Approval, and as required under § 761.61(a)(8)(i)(B), the City shall submit to EPA a certification signed by the property owner, that the notation on the deed has been recorded as required under § 761.61(a)(8)(i)(A). A copy of the notation on the deed must also be submitted.
- a. In the event that an Environmental Covenant (EC) is required pursuant to the Maine Department of Environmental Protection regulations, the timeline for recording this deed notation may be modified in order to incorporate the Site under the EC if:
- (1) the City notifies EPA, in writing, prior to elapse of the 60-day deadline; and,
  - (2) the City provides an estimated schedule for submittal of a draft EC for EPA review and approval.
22. The City shall submit a final report to EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this final report shall include: a short narrative of the cleanup and disposal activities; characterization and confirmation sampling analytical results (as applicable); copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of and the size of the remediated area(s); copies of manifests and bills of lading; and copies of certificates of disposal or similar certifications issued by the disposer.
23. Required submittals shall be mailed to:
- Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mail Code: OSRR07-2  
Boston, Massachusetts 02109-3912
24. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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**END OF ATTACHMENT 1**